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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,480	03/19/2001	Anthony H. Gonzalez	GONZ01	1630

23892 7590 05/21/2003

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EXAMINER

CINTINS, IVARS C

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/812,480

Applicant(s)
Gonzalez et al.

Examiner
Ivars Cintins

Art Unit
1724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Oct 11, 2002
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above, claim(s) 30-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 17-25 is/are rejected.
- 7) ☒ Claim(s) 13-16 and 26-29 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 6) ☐ Other: _____

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Applicant's election of Group I, claims 1-29, in Paper No. 3 is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 30-55 are withdrawn from further consideration, as being directed to a non-elected invention.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12 and 17-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schenach (U.S. Patent No. 5,447,642) in view of Fortier (U.S. Patent No. 5,942,128). Schenach discloses a process for purifying a metal working fluid, which process comprises transferring the fluid to a treatment vessel (col. 5, lines 20-22), heating the fluid to destroy microorganisms (col. 5, lines 31-33), gently agitating the fluid during heating (col. 5, lines 34-36), cooling the treated fluid in a heat exchanger (col. 6, lines 1-3), and transferring the cooled fluid to a

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storage container (col. 6, lines 3-4). Accordingly, this primary reference discloses the claimed invention with the exception of the recited aeration treatment, the type of heat exchanger employed (claims 3 and 6), the duration of the heating period (claims 9 and 10), and the manner in which the various fluids are transferred in the system (claims 17-25). Fortier teaches aerating a metal working fluid in order to retard the growth of bacteria therein (col. 2, lines 39-42); and it would have been obvious to one of ordinary skill in the art at the time the invention was made to aerate the metal working fluid of the primary reference in the manner suggested by Fortier, in order to retard the growth of undesirable bacteria in this primary reference system. Also, since fin and tube heat exchangers are well known, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such a heat exchanger as the heat exchanger called for in the system of Schenach (see col. 4, lines 22-23 and 28-29; and col. 6, lines 26-27 and 33-35). Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to heat the metal working fluid of the modified primary reference for longer than 60 minutes, in order to ensure that all of the microorganisms in this fluid are destroyed. Moreover, it would have been obvious to one of ordinary skill in the art at the time

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the invention was made to employ the fluid transfer techniques recited in claims 17-25 in the system of the modified primary reference, since these techniques are well known for transferring fluids from one location to another.

Claims 13-16 and 26-29 are objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Burke (U.S. Patent No. 4,492,636) and Lewis (U.S. Patent No. 4,636,317) disclose similar processes for purifying metal working fluids.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I. Cintins whose telephone number is (703) 308-3840. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas Dunn, can be reached at (703) 308-3318.

The fax phone numbers for this art unit are: (703) 872-9311 for "Official" faxes after Final Rejection; (703) 872-9310 for all other "Official" faxes; and (703) 872-9492 for "Draft" and other "Unofficial" faxes.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Ivars C. Cintins
Primary Examiner
Art Unit 1724

I. Cintins
May 17, 2003